

## Dependent Adult Abuse - DHS

### 235B.2 Definitions.

As used in [this chapter](#), unless the context otherwise requires:

1. “*Caretaker*” means a related or nonrelated person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court.
  2. “*Court*” means the district court.
  3. “*Department*” means the department of human services.
  4. “*Dependent adult*” means a person eighteen years of age or older who is unable to protect the person’s own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another, or as defined by departmental rule.
  5. a. “*Dependent adult abuse*” means:
    - (1) Any of the following as a result of the willful or negligent acts or omissions of a caretaker:
      - (a) Physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult.
      - (b) The commission of a sexual offense under [chapter 709](#) or [section 726.2](#) with or against a dependent adult.
      - (c) Exploitation of a dependent adult which means the act or process of taking unfair advantage of a dependent adult or the adult’s physical or financial resources for one’s own personal or pecuniary profit, without the informed consent of the dependent adult, including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.
      - (d) The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult’s life or health.
    - (2) The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult’s life or health as a result of the acts or omissions of the dependent adult.
    - (3) (a) Sexual exploitation of a dependent adult by a caretaker.
    - (b) “*Sexual exploitation*” means any consensual or nonconsensual sexual conduct with a dependent adult which includes but is not limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in [section 702.17](#). “*Sexual exploitation*” includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing assessment, evaluation, or investigation. Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.
  - b. “*Dependent adult abuse*” does not include any of the following:
    - (1) Circumstances in which the dependent adult declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
    - (2) Circumstances in which the dependent adult’s caretaker, acting in accordance with the dependent adult’s stated or implied consent, declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
    - (3) The withholding or withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult’s next of kin, attorney in fact, or guardian pursuant to the applicable procedures under [chapter 125](#), [144A](#), [144B](#), [222](#), [229](#), or [633](#).
6. “*Emergency shelter services*” means and includes, but is not limited to, secure crisis shelters or housing for victims of dependent adult abuse.
7. “*Family or household member*” means a spouse, a person cohabiting with the dependent adult, a parent, or a person related to the dependent adult by consanguinity or affinity, but does not include children of the dependent adult who are less than eighteen years of age.
8. “*Immediate danger to health or safety*” means a situation in which death or severe bodily

injury could reasonably be expected to occur without intervention.

9. *“Individual employed as an outreach person”* means a natural person who, in the course of employment, makes regular contacts with dependent adults regarding available community resources.

10. *“Legal holiday”* means a legal public holiday as defined in [section 1C.1](#).

11. *“Person”* means person as defined in [section 4.1](#).

12. *“Recklessly”* means that a person acts or fails to act with respect to a material element of a public offense, when the person is aware of and consciously disregards a substantial and unjustifiable risk that the material element exists or will result from the act or omission. The risk must be of such a nature and degree that disregard of the risk constitutes a gross deviation from the standard conduct that a reasonable person would observe in the situation.

13. *“Serious injury”* means the same as defined in [section 702.18](#).

14. *“Support services”* includes but is not limited to community-based services including area agency on aging assistance, mental health services, fiscal management, home health services, housing-related services, counseling services, transportation services, adult day services, respite services, legal services, and advocacy services.

### **235B.3 Dependent adult abuse reports.**

1. a. (1) The department shall receive dependent adult abuse reports and shall collect, maintain, and disseminate the reports by establishing a central registry for dependent adult abuse information. The department shall evaluate the reports expeditiously.

(2) However, the department of inspections and appeals is solely responsible for the evaluation and disposition of dependent adult abuse cases within facilities and programs pursuant to [chapter 235E](#) and shall inform the department of human services of such evaluations and dispositions pursuant to [section 235E.2](#).

(3) If, in the course of an assessment or evaluation of a report of dependent adult abuse, the department of human services or the department of inspections and appeals determines the case involves wages, workplace safety, or other labor and employment matters under the jurisdiction of the division of labor services of the department of workforce development, the relevant portions of the case shall be referred to the division.

(4) If, in the course of an assessment or evaluation of a report of dependent adult abuse, the department of human services or the department of inspections and appeals determines that the case involves discrimination under the jurisdiction of the civil rights commission, the relevant portions of the case shall be referred to the commission.

b. Reports of dependent adult abuse which is the result of the acts or omissions of the dependent adult shall be collected and maintained in the files of the dependent adult as assessments only and shall not be included in the central registry.

c. A report of dependent adult abuse that meets the definition of dependent adult abuse under [section 235B.2, subsection 5](#), paragraph “a”, subparagraph (1), subparagraph division (a) or (d), which the department determines is minor, isolated, and unlikely to reoccur shall be collected and maintained by the department as an assessment only for a five-year period and shall not be included in the central registry and shall not be considered to be founded dependent adult abuse. However, a subsequent report of dependent adult abuse that meets the definition of dependent adult abuse under [section 235B.2, subsection 5](#), paragraph “a”, subparagraph (1), subparagraph division (a) or (d), that occurs within the five-year period and that is committed by the caretaker responsible for the act or omission which was the subject of the previous report of dependent adult abuse which the department determined was minor, isolated, and unlikely to reoccur shall not be considered minor, isolated, and unlikely to reoccur.

2. A person who, in the course of employment, examines, attends, counsels, or treats a dependent adult and reasonably believes the dependent adult has suffered abuse, shall report the suspected dependent adult abuse to the department. Persons required to report include all of the following:

a. A member of the staff of a community mental health center.

b. A peace officer.

c. An in-home homemaker-home health aide.

d. An individual employed as an outreach person.

e. A health practitioner, as defined in [section 232.68](#).

f. A member of the staff or an employee of a supported community living service, sheltered workshop, or work activity center.

g. A social worker.

h. A certified psychologist.

3. a. If a staff member or employee is required to report pursuant to [this section](#), the person shall immediately notify the department and shall also immediately notify the person in charge or the person's designated agent.

b. The employer or supervisor of a person who is required to or may make a report pursuant to [this section](#) shall not apply a policy, work rule, or other requirement that interferes with the person making a report of dependent adult abuse or that results in the failure of another person to make the report.

4. An employee of a financial institution may report suspected financial exploitation of a dependent adult to the department.

5. Any other person who believes that a dependent adult has suffered abuse may report the suspected abuse to the department of human services.

6. Following the reporting of suspected dependent adult abuse, the department of human services or an agency approved by the department shall complete an assessment of necessary services and shall make appropriate referrals for receipt of these services. The assessment shall include interviews with the dependent adult, and, if appropriate, with the alleged perpetrator of the dependent adult abuse and with any person believed to have knowledge of the circumstances of the case. The department may provide necessary protective services and may establish a sliding fee schedule for those persons able to pay a portion of the protective services.

7. Upon a showing of probable cause that a dependent adult has been abused, a court may authorize a person, also authorized by the department, to make an evaluation, to enter the residence of, and to examine the dependent adult. Upon a showing of probable cause that a dependent adult has been financially exploited, a court may authorize a person, also authorized by the department, to make an evaluation, and to gain access to the financial records of the dependent adult.

8. If the department determines that disclosure is necessary for the protection of a dependent adult, the department may disclose to a subject of a dependent adult abuse report referred to in [section 235B.6, subsection 2](#), paragraph "a", that an individual is listed in the child or dependent adult abuse registry or is required to register with the sex offender registry in accordance with [chapter 692A](#).

9. The department shall inform the appropriate county attorneys of any reports of dependent adult abuse. The department may request information from any person believed to have knowledge of a case of dependent adult abuse. The person, including but not limited to a county attorney, a law enforcement agency, a multidisciplinary team, a social services agency in the state, or any person who is required pursuant to [subsection 2](#) to report dependent adult abuse, whether or not the person made the specific dependent adult abuse report, shall cooperate and assist in the evaluation upon the request of the department. If the department's assessment reveals that dependent adult abuse exists which might constitute a criminal offense, a report shall be made to the appropriate law enforcement agency. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

a. If, upon completion of the evaluation or upon referral from the department of inspections and appeals, the department determines that the best interests of the dependent adult require court action, the department shall initiate action for the appointment of a guardian or conservator or for admission or commitment to an appropriate institution or facility pursuant to the applicable procedures under [chapter 125, 222, 229, or 633](#), or shall pursue other remedies provided by law. The appropriate county attorney shall assist the department in the preparation of the necessary papers to initiate the action and shall appear and represent the department at all district court proceedings.

b. The department shall assist the court during all stages of court proceedings involving a suspected case of dependent adult abuse.

c. In every case involving abuse which is substantiated by the department and which results in a judicial proceeding on behalf of the dependent adult, legal counsel shall be appointed by the court to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult if necessary to protect the dependent adult's best interests. The same attorney may be appointed to serve both as legal counsel and as guardian ad litem. Before legal counsel or a guardian ad litem is appointed pursuant to [this section](#), the court shall require the dependent adult and any person legally responsible for the support of the dependent adult to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the dependent adult or the legally responsible person is able to bear all or a portion of the cost of the legal counsel or guardian ad litem, the court shall so order. In cases where

the dependent adult or the legally responsible person is unable to bear the cost of the legal counsel or guardian ad litem, the expense shall be paid by the county.

10. A person participating in good faith in reporting or cooperating with or assisting the department in evaluating a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participating in good faith in a judicial proceeding resulting from the report or cooperation or assistance or relating to the subject matter of the report, cooperation, or assistance.

11. It shall be unlawful for any person or employer to discharge, suspend, or otherwise discipline a person required to report or voluntarily reporting an instance of suspected dependent adult abuse pursuant to [subsection 2 or 5](#), or cooperating with, or assisting the department of human services in evaluating a case of dependent adult abuse, or participating in judicial proceedings relating to the reporting or cooperation or assistance based solely upon the person's reporting or assistance relative to the instance of dependent adult abuse. A person or employer found in violation of [this subsection](#) is guilty of a simple misdemeanor.

12. A person required by [this section](#) to report a suspected case of dependent adult abuse who knowingly and willfully fails to do so commits a simple misdemeanor. A person required by [this section](#) to report a suspected case of dependent adult abuse who knowingly fails to do so or who knowingly, in violation of [subsection 3](#), interferes with the making of such a report or applies a requirement that results in such a failure is civilly liable for the damages proximately caused by the failure.

13. The department of inspections and appeals shall adopt rules which require facilities or programs to separate an alleged dependent adult abuser from a victim following an allegation of perpetration of abuse and prior to the completion of an investigation of the allegation.

#### **235B.16 Information, education, and training requirements.**

1. The department on aging, in cooperation with the department, shall conduct a public information and education program. The elements and goals of the program include but are not limited to:

- a. Informing the public regarding the laws governing dependent adult abuse and the reporting requirements for dependent adult abuse.
- b. Providing caretakers with information regarding services to alleviate the emotional, psychological, physical, or financial stress associated with the caretaker and dependent adult relationship.
- c. Affecting public attitudes regarding the role of a dependent adult in society.

2. The department, in cooperation with the department on aging and the department of inspections and appeals, shall institute a program of education and training for persons, including members of provider groups and family members, who may come in contact with dependent adult abuse. The program shall include but is not limited to instruction regarding recognition of dependent adult abuse and the procedure for the reporting of suspected abuse.

3. The content of the continuing education required pursuant to [chapter 272C](#) for a licensed professional providing care or service to a dependent adult shall include, but is not limited to, the responsibilities, obligations, powers, and duties of a person regarding the reporting of suspected dependent adult abuse, and training to aid the professional in identifying instances of dependent adult abuse.

4. The department of inspections and appeals shall provide training to investigators regarding the collection and preservation of evidence in the case of suspected dependent adult abuse.

5. a. For the purposes of [this subsection](#), "licensing board" means a board designated in [section 147.13](#), the board of educational examiners created in [section 272.2](#), or a licensing board as defined in [section 272C.1](#).

b. A person required to report cases of dependent adult abuse pursuant to [sections 235B.3 and 235E.2](#), other than a physician whose professional practice does not regularly involve providing primary health care to adults, shall complete two hours of training relating to the identification and reporting of dependent adult abuse within six months of initial employment or self-employment which involves the examination, attending, counseling, or treatment of adults on a regular basis. Within one month of initial employment or self-employment, the person shall obtain a statement of the abuse reporting requirements from the person's employer or, if self-employed, from the department. The person shall complete at least two hours of additional dependent adult abuse identification and reporting training every five years.

c. If the person is an employee of a hospital or similar public or private facility, the

employer shall be responsible for providing the training. To the extent that the employer provides approved training on the employer's premises, the hours of training completed by employees shall be included in the calculation of nursing or service hours required to be provided to a patient or resident per day. If the person is self-employed, employed in a licensed or certified profession, or employed by a facility or program that is subject to licensure, regulation, or approval by a state agency, the person shall obtain the training as provided in paragraph "d".

d. The person may complete the initial or additional training requirements as a part of any of the following that are applicable to the person:

(1) A continuing education program required under [chapter 272C](#) and approved by the appropriate licensing board.

(2) A training program using a curriculum approved by the director of public health pursuant to [section 135.11](#).

(3) A training program using such an approved curriculum offered by the department of human services, the department on aging, the department of inspections and appeals, the Iowa law enforcement academy, or a similar public agency.

e. A person required to complete both child abuse and dependent adult abuse mandatory reporter training may complete the training through a program which combines child abuse and dependent adult abuse curricula and thereby meet the training requirements of both [this subsection](#) and [section 232.69](#) simultaneously. A person who is a mandatory reporter for both child abuse and dependent adult abuse may satisfy the combined training requirements of [this subsection](#) and [section 232.69](#) through completion of a two-hour training program, if the training program curriculum is approved by the appropriate licensing board or the director of public health pursuant to [section 135.11](#).

f. A licensing board with authority over the license of a person required to report cases of dependent adult abuse pursuant to [sections 235B.3](#) and [235E.2](#) shall require as a condition of licensure that the person is in compliance with the requirements for abuse training under [this subsection](#). The licensing board shall require the person upon licensure renewal to accurately document for the licensing board the person's completion of the training requirements. However, the licensing board may adopt rules providing for waiver or suspension of the compliance requirements, if the waiver or suspension is in the public interest, applicable to a person who is engaged in active duty in the military service of this state or of the United States, to a person for whom compliance with the training requirements would impose a significant hardship, or to a person who is practicing a licensed profession outside this state or is otherwise subject to circumstances that would preclude the person from encountering dependent adult abuse in this state.

g. For persons required to report cases of dependent adult abuse pursuant to [sections 235B.3](#) and [235E.2](#), who are not engaged in a licensed profession that is subject to the authority of a licensing board but are employed by a facility or program subject to licensure, registration, or approval by a state agency, the agency shall require as a condition of the renewal of the facility's or program's licensure, registration, or approval, that such persons employed by the facility or program are in compliance with the training requirements of [this subsection](#).

h. For peace officers, the elected or appointed official designated as the head of the agency employing the peace officer shall ensure compliance with the training requirements of [this subsection](#).

i. For persons required to report cases of dependent adult abuse pursuant to [sections 235B.3](#) and [235E.2](#) who are employees of state departments and political subdivisions of the state, the department director or the chief administrator of the political subdivision shall ensure the persons' compliance with the training requirements of [this subsection](#).

6. The department shall require an educational program for employees of the registry on the proper use and control of dependent adult abuse information.

### **235E.1 Definitions.**

As used in [this chapter](#), unless the context otherwise requires:

1. "Caretaker" means a person who is a staff member of a facility or program who provides care, protection, or services to a dependent adult voluntarily, by contract, through employment, or by order of the court.
2. "Court" means the district court.
3. "Department" means the department of inspections and appeals.
4. "Dependent adult" means a person eighteen years of age or older whose ability to perform the normal activities of daily living or to provide for the person's own care or



protection is impaired, either temporarily or permanently.

5. a. *“Dependent adult abuse”* means:

(1) Any of the following as a result of the willful misconduct or gross negligence or reckless acts or omissions of a caretaker, taking into account the totality of the circumstances:

(a) A physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult which involves a breach of skill, care, and learning ordinarily exercised by a caretaker in similar circumstances. *“Assault of a dependent adult”* means the commission of any act which is generally intended to cause pain or injury to a dependent adult, or which is generally intended to result in physical contact which would be considered by a reasonable person to be insulting or offensive or any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

(b) The commission of a sexual offense under [chapter 709](#) or [section 726.2](#) with or against a dependent adult.

(c) Exploitation of a dependent adult. *“Exploitation”* means a caretaker who knowingly obtains, uses, endeavors to obtain to use, or who misappropriates, a dependent adult’s funds, assets, medications, or property with the intent to temporarily or permanently deprive a dependent adult of the use, benefit, or possession of the funds, assets, medication, or property for the benefit of someone other than the dependent adult.

(d) Neglect of a dependent adult. *“Neglect of a dependent adult”* means the deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult’s life or physical or mental health.

(2) Sexual exploitation of a dependent adult by a caretaker whether within a facility or program or at a location outside of a facility or program. *“Sexual exploitation”* means any consensual or nonconsensual sexual conduct with a dependent adult which includes but is not limited to kissing; touching of the clothed or unclothed breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in [section 702.17](#). *“Sexual exploitation”* includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing investigation. *“Sexual exploitation”* does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses or domestic partners in an intimate relationship.

(3) Personal degradation of a dependent adult. *“Personal degradation”* means a willful act or statement by a caretaker intended to shame, degrade, humiliate, or otherwise harm the personal dignity of a dependent adult, or where the caretaker knew or reasonably should have known the act or statement would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. *“Personal degradation”* includes the taking, transmission, or display of an electronic image of a dependent adult by a caretaker, where the caretaker’s actions constitute a willful act or statement intended to shame, degrade, humiliate, or otherwise harm the personal dignity of the dependent adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. *“Personal degradation”* does not include the taking, transmission, or display of an electronic image of a dependent adult for the purpose of reporting dependent adult abuse to law enforcement, the department, or other regulatory agency that oversees caretakers or enforces abuse or neglect provisions, or for the purpose of treatment or diagnosis or as part of an ongoing investigation. *“Personal degradation”* also does not include the taking, transmission, or display of an electronic image by a caretaker in accordance with the facility’s or program’s confidentiality policy and release of information or consent policies.

b. *“Dependent adult abuse”* does not include any of the following:

(1) Circumstances in which the dependent adult declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

(2) Circumstances in which the dependent adult’s caretaker, acting in accordance with the dependent adult’s stated or implied consent, declines medical treatment or care.

(3) The withholding or withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the dependent adult or at the request of the dependent

adult's next of kin, attorney in fact, or guardian pursuant to the applicable procedures under [chapter 125, 144A, 144B, 222, 229, or 633](#).

6. "Facility" means a health care facility as defined in [section 135C.1](#) or a hospital as defined in [section 135B.1](#).

7. "Intimate relationship" means a significant romantic involvement between two persons that need not include sexual involvement, but does not include a casual social relationship or association in a business or professional capacity. In determining whether persons are in an intimate relationship, the court may consider the following nonexclusive list of factors:

- a. The duration of the relationship.
- b. The frequency of interaction.
- c. Whether the relationship has been terminated.
- d. The nature of the relationship, characterized by either person's expectation of sexual or romantic involvement.

8. "Person" means person as defined in [section 4.1](#).

9. "Program" means an elder group home as defined in [section 231B.1](#), an assisted living program certified under [section 231C.3](#), or an adult day services program as defined in [section 231D.1](#).

10. "Recklessly" means that a person acts or fails to act with respect to a material element of a public offense, when the person is aware of and consciously disregards a substantial and unjustifiable risk that the material element exists or will result from the act or omission. The risk must be of such a nature and degree that disregard of the risk constitutes a gross deviation from the standard conduct that a reasonable person would observe in the situation.

11. "Support services" includes but is not limited to community-based services including area agency on aging assistance, mental health services, fiscal management, home health services, housing-related services, counseling services, transportation services, adult day services, respite services, legal services, and advocacy services.

## **235E.2 Dependent adult abuse reports in facilities and programs.**

1. a. The department shall receive and evaluate reports of dependent adult abuse in facilities and programs. The department shall inform the department of human services of such evaluations and dispositions and those individuals who should be placed on the central registry for dependent adult abuse pursuant to [section 235E.7](#). If the department believes the situation involves an immediate danger to the public health, safety, or welfare requiring immediate agency action to seek emergency placement on the central registry, the department may utilize emergency adjudicative proceedings pursuant to [section 17A.18A](#).  
b. Reports of dependent adult abuse which is the result of the acts or omissions of the dependent adult shall be collected and maintained in the files of the dependent adult as assessments only and shall not be included in the central registry.  
c. A report of dependent adult abuse that meets the definition of dependent adult abuse under [section 235E.1, subsection 5](#), paragraph "a", subparagraph (1), subparagraph division (a) or (d), which the department determines is minor, isolated, and unlikely to reoccur shall be collected and maintained by the department of human services as an assessment only for a five-year period and shall not be included in the central registry and shall not be considered to be founded dependent adult abuse. A subsequent report of dependent adult abuse that meets the definition of dependent adult abuse under [section 235E.1, subsection 5](#), paragraph "a", subparagraph (1), subparagraph division (a) or (d), that occurs within the five-year period, and that is committed by the caretaker responsible for the act or omission which was the subject of the previous report of dependent adult abuse which the department determined was minor, isolated, and unlikely to reoccur, may be considered minor, isolated, and unlikely to reoccur depending on the circumstances of the report.
2. A staff member or employee of a facility or program who, in the course of employment, examines, attends, counsels, or treats a dependent adult in a facility or program and reasonably believes the dependent adult has suffered dependent adult abuse, shall report the suspected dependent adult abuse to the department.
3. a. If a staff member or employee is required to make a report pursuant to [this section](#), the staff member or employee shall immediately notify the person in charge or the person's designated agent who shall then notify the department within twenty-four hours of such notification. If the person in charge is the alleged dependent adult abuser, the staff member shall directly report the abuse to the department within twenty-four hours.  
b. The employer or supervisor of a person who is required to or may make a report pursuant to [this section](#) shall not apply a policy, work rule, or other requirement that interferes with the person making a report of dependent adult abuse or that results in the

failure of another person to make the report.

4. An employee of a financial institution may report suspected financial exploitation of a dependent adult to the department.

5. Any other person who believes that a dependent adult has suffered dependent adult abuse may report the suspected dependent adult abuse to the department of inspections and appeals. The department of inspections and appeals shall transfer any reports received of dependent adult abuse in the community to the department of human services. The department of human services shall transfer any reports received of dependent adult abuse in facilities or programs to the department of inspections and appeals.

6. The department shall inform the appropriate county attorneys of any reports of dependent adult abuse. The department may request information from any person believed to have knowledge of a case of dependent adult abuse. The person, including but not limited to a county attorney, a law enforcement agency, a multidisciplinary team, a social services agency in the state, or any person who is required pursuant to [subsection 2](#) to report dependent adult abuse, whether or not the person made the specific dependent adult abuse report, shall cooperate and assist in the evaluation upon the request of the department. If the department's assessment reveals that dependent adult abuse exists which might constitute a criminal offense, a report shall be made to the appropriate law enforcement agency. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

a. If, upon completion of an investigation, the department determines that the best interests of the dependent adult require court action, the department shall notify the department of human services of the potential need for a guardian or conservator or for admission or commitment to an appropriate institution or facility pursuant to the applicable procedures under [chapter 125](#), [222](#), [229](#), or [633](#), or shall pursue other remedies provided by law. The appropriate county attorney shall assist the department of human services in the preparation of the necessary papers to initiate the action and shall appear and represent the department of human services at all district court proceedings.

b. Investigators within the department shall be specially trained to investigate cases of dependent adult abuse including but not limited to cases involving gerontological, dementia, and wound care issues.

c. The department shall assist the court during all stages of court proceedings involving a suspected case of dependent adult abuse.

d. In every case involving dependent adult abuse which is substantiated by the department and which results in a judicial proceeding on behalf of the dependent adult, legal counsel shall be appointed by the court to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult if necessary to protect the dependent adult's best interests. The same attorney shall not be appointed to serve both as legal counsel and as guardian ad litem. Before legal counsel or a guardian ad litem is appointed pursuant to this paragraph, the court shall require the dependent adult and any person legally responsible for the support of the dependent adult to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the dependent adult or the legally responsible person is able to bear all or a portion of the cost of the legal counsel or guardian ad litem, the court shall so order. In cases where the dependent adult or the legally responsible person is unable to bear the cost of the legal counsel or guardian ad litem, the expense shall be paid by the county.

7. A person participating in good faith in reporting or cooperating with or assisting the department in evaluating a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participating in good faith in a judicial proceeding resulting from the report, cooperation, or assistance or relating to the subject matter of the report, cooperation, or assistance.

8. It shall be unlawful for any person or employer to discharge, suspend, or otherwise discipline a person required to report or voluntarily reporting an instance of suspected dependent adult abuse pursuant to [subsection 2](#) or [5](#), or cooperating with, or assisting the department in evaluating a case of dependent adult abuse, or participating in judicial proceedings relating to the reporting or cooperation or assistance based solely upon the person's reporting or assistance relative to the instance of dependent adult abuse. A person or employer found in violation of [this subsection](#) is guilty of a simple misdemeanor.

9. A person required by [this section](#) to report a suspected case of dependent adult abuse pursuant to [subsection 2](#) who knowingly and willfully fails to do so within twenty-four hours commits a simple misdemeanor. A person required by [subsection 2](#) to report a suspected case



of dependent adult abuse who knowingly fails to do so or who knowingly interferes with the making of such a report or applies a requirement that results in such a failure is civilly liable for the damages proximately caused by the failure.

10. The department shall adopt rules which require facilities and programs to separate an alleged dependent adult abuser from a victim following an allegation of perpetration of dependent adult abuse and prior to the completion of an investigation of the allegation. Independent of the department's investigation, the facility or program employing the alleged dependent adult abuser shall conduct an investigation of the alleged dependent adult abuse and determine what, if any, employment action should be taken including but not limited to placing the alleged dependent adult abuser on administrative leave or reassigning or terminating the alleged dependent adult abuser as a result of the investigation by the facility or program. If the facility or program terminates the alleged dependent adult abuser as a result of the investigation by the facility or program or the alleged dependent adult abuser resigns, the alleged dependent adult abuser shall disclose such termination or investigation to any prospective facility or program employer. An alleged dependent adult abuser who fails to disclose such termination or investigation is guilty of a simple misdemeanor.

11. Upon receiving notice from a credible source, the department shall notify a facility or program that subsequently employs a dependent adult abuser when the notice of investigative findings has been issued. Such notification shall occur prior to the completion of an investigation that is founded for dependent adult abuse.

12. An inspector of the department may enter any facility or program without a warrant and may examine all records pertaining to residents, employees, former employees, and the alleged dependent adult abuser. If upon entry, the inspector has knowledge of or learns during the course of an investigation that alleged dependent adult abuse is suspected or is being investigated, the inspector shall inform the facility or program that the inspector is investigating an alleged case of dependent adult abuse. An inspector of the department may contact or interview any resident, employee, former employee, or any other person who might have knowledge about the alleged dependent adult abuse. Prior to the interview, the department shall provide written notification to the person under investigation for dependent adult abuse that the person is under investigation for dependent adult abuse, the nature of the abuse being investigated, the possible civil administrative consequences of founded abuse, the requirement that the department forward a report to law enforcement if the department's investigation reveals a potential criminal offense, that the person has the right to retain legal counsel at the person's expense and may choose to have legal counsel, union representation, or any other desired representative employed by the facility present during the interview, and the fact that the person has the right to decline to be interviewed or to terminate an interview at any time. The person under investigation shall inform the department of the representatives desired to be present during the interview and not delay the interview by more than five working days to make arrangements for the person's representatives to be present at the interview. Any employer representative shall be informed of the requirement to maintain strict confidentiality and of the prohibition against dissemination of such information pursuant to [chapter 235B](#). At the interview, the department shall request and the alleged dependent adult abuser shall provide the alleged dependent adult abuser's most current contact information to facilitate provision of the findings to the alleged dependent adult abuser. An inspector may take or cause to be taken photographs of the dependent adult abuse victim and the vicinity involved. The department shall obtain consent from the dependent adult abuse victim or guardian or other person with a power of attorney over the dependent adult abuse victim prior to taking photographs of the dependent adult abuse victim.

13. a. Notwithstanding [section 235B.6](#) and [chapter 22](#), an employee organization or union representative may observe an investigative interview conducted by the department of an alleged dependent adult abuser if all of the following conditions are met:

- (1) The alleged dependent adult abuser is part of a bargaining unit that is party to a collective bargaining agreement under [chapter 20](#) or any other applicable state or federal law.
- (2) The alleged dependent adult abuser requests the presence of an employee organization or union representative.
- (3) The employee organization or union representative maintains the confidentiality of all information from the interview subject to the penalties provided in [section 235B.12](#) if such confidentiality is breached.

b. [This subsection](#) shall only apply to interviews conducted pursuant to [this chapter](#). [This subsection](#) does not apply to interviews conducted pursuant to the regulatory activities of

chapter 135B, 135C, 231B, 231C, or 231D, or any other state or federal law.

#### **IAC 441—176.1 (235B) Definitions.**

*“Adult abuse”* means either:

1. Any of the following as a result of the willful or negligent acts or omissions of a caretaker:

- Physical injury to, or injury which is at variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult.
- The commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2 with or against a dependent adult.
- Exploitation of a dependent adult, which means the act or process of taking unfair advantage of a dependent adult or the adult's physical or financial resources for one's own personal or pecuniary profit, without the informed consent of the dependent adult, including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.
- The deprivation of the minimum food, shelter, clothing, supervision, physical or mental healthcare, and other care necessary to maintain a dependent adult's life or health.
- Sexual exploitation of a dependent adult by a caretaker. “Sexual exploitation” means any consensual or nonconsensual sexual contact with a dependent adult which includes but is not limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in Iowa Code section 702.17. “Sexual exploitation” includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing assessment, evaluation or investigation. “Sexual exploitation” does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.

2. The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult.

*“Appropriate evaluation or assessment”* means that evaluation or assessment reasonably believed by the department to be warranted by the facts and circumstances of the case as reported.

*“Assault”* means “assault” as defined in Iowa Code section 708.1.

*“At-risk adult”* means an adult who, because of a significant impairment due to a physical or mental disability or both, is unable to meet essential daily needs without assistance and whose personal health or safety is at risk due to such impairments, the environment, substance abuse problems, a lack of services or social supports, a refusal to accept services, or other risk factors identified through an assessment.

*“Caretaker”* means a related or nonrelated person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court.

*“Collateral sources”* means any person or agency who is presently providing, either in a professional or paraprofessional capacity, service to the dependent adult, including, but not limited to, doctors, counselors, and public health nurses.

*“Confidentiality”* means the withholding of information from any manner of communication, public or private.

*“Denial of critical care”* exists when the dependent adult's basic needs are denied or ignored to such an extent that there is immediate or potential danger of the dependent adult suffering injury or death, or is a denial of, or a failure to provide the mental health care necessary to adequately treat the dependent adult's serious social maladjustment, or is a gross failure of the caretaker to meet the emotional needs of the dependent adult necessary for normal functioning, or is a failure of the caretaker to provide for the proper supervision of the dependent adult.

*“Department”* means the department of human services and includes the county and central offices of the department, unless otherwise specified.

*“Dependent adult”* means a person 18 years of age or older who is unable to protect the person's own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another.

*“Expungement”* means the process of destroying dependent adult abuse information.

*“Immediate danger to health or safety”* means a situation in which death or severe bodily injury could reasonably be expected to occur without intervention.

*“Immediately”* means within 24 hours when referring to mandatory reporters reporting suspected abuse of a dependent adult.

*“Individual employed as an outreach person”* means a person who, in the course of employment, makes regular contacts with dependent adults regarding available community resources.

*“Informed consent”* (as used in Iowa Code paragraph 235B.2(5) “c”) means a dependent adult's agreement to allow something to happen that is based on a full disclosure of known facts and circumstances needed to make the decision intelligently, i.e., knowledge of risks involved or alternatives.

*“Minimum food, shelter, clothing, supervision, physical and mental health care, and other care”* means that food, shelter, clothing, supervision, physical and mental health care, and other care which, if not provided, would constitute denial of critical care.

*“Multidisciplinary team”* shall mean a membership of individuals who possess knowledge and skills related to the diagnosis, assessment, and disposition of dependent adult abuse cases and who are professionals practicing in the disciplines of medicine, public health, social work, law, law enforcement and other disciplines relative to dependent adults. Members of the team shall include, but are not limited to, persons representing the area agencies on aging, county attorneys, health care providers, and others involved in advocating or providing services for dependent adults.

*“Physical injury”* means damage to any bodily tissue to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, or damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition, or damage to any bodily tissue which results in the death of the person who has sustained the damage, or physical injury which is at variance with the history given of it.

*“Preponderance of evidence”* shall mean evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it.

*“Proper supervision”* means that supervision which a reasonable and prudent person would exercise under similar facts and circumstances, but in no event shall a person place a dependent adult in a situation that may endanger the dependent adult’s life or health or cruelly punish or unreasonably confine the dependent adult.

*“Registry”* means the central registry for dependent adult abuse information established in Iowa Code Supplement section 235B.5.

*“Report”* means a verbal or written statement, made to the department, which alleges that dependent adult abuse has occurred.

**IAC 441—176.4 (235B) Reporters.** The central registry and county office shall accept reports from mandatory reporters or any other person who believes dependent adult abuse has occurred.

**176.4(1)** Mandatory reporters shall:

- a. Report suspected abuse of a dependent adult within 24 hours of becoming aware of an abusive incident.
- b. Make a written report within 48 hours after an oral report.

**176.4(2)** The reporter may use the department’s Form 470-2441, Suspected Dependent Adult Abuse Report, or may use a form developed by the reporter that meets the requirements of Iowa Code section 235B.3.

**IAC 441—176.8(235B) Immunity from liability for reporters.** A person participating in good faith in making a report or cooperating or assisting the department in evaluating or assessing a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participation in good faith in a judicial proceeding resulting from the report or assistance or relating to the subject matter of the report or assistance.